

ORDINANCE 2014-14

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF WHITESTOWN, INDIANA, ANNEXING TERRITORY TO THE TOWN OF WHITESTOWN,
INDIANA, PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES THEREOF AND MAKING
THE SAME A PART OF THE TOWN OF WHITESTOWN**

2014 SOUTH ANNEXATION

WHEREAS, the Town Council ("Council") of the Town of Whitestown, Indiana ("Town") deems it desirable and in the best interest of the Town to annex to the Town certain territory generally located to the south of the Town's existing corporate limits, as hereinafter described ("Annexation Territory"); and

WHEREAS, the Annexation Territory is owned by multiple owners and others with property interests vested therein; and

WHEREAS, a map and legal description of the Annexation Territory is attached hereto as Exhibit A and Exhibit B, respectively; and

WHEREAS, except for any public highway right-of-way that is the southern boundary of Boone County, Indiana, where the legal description attached as Exhibit B describes land that is contiguous to a public highway right-of-way that has not previously been annexed and is not within another municipality as of the effective date hereof, the Annexation Territory shall include the contiguous public highway right-of-way even if it is not described in Exhibit B; and

WHEREAS, it is not the Council's intention to attempt to annex any territory that is outside Boone County, Indiana; and

WHEREAS, as a result of the intentions stated in the preceding paragraph, and subject to the severability provisions of this Ordinance, the legal description of the Annexation Territory attached as Exhibit B is intended by this Council to abut on the south side of the southern boundary of Boone County and is not intended to include any territory south of such boundary; and

WHEREAS, as the result of the intentions stated above and subject to the severability provisions of this Ordinance, where the Annexation Territory attached as Exhibit B describes land contiguous to the

public right-of-way that is the southern boundary of Boone County, Indiana, it is the intention of the Council to annex all of, but not more than, the portion of the contiguous public highway right-of-way which is located in Boone County, Indiana; and

WHEREAS, even though this Council does not intend to annex right-of-way which lies outside of Boone County, Indiana, it is the intention of the Council to enter into any appropriate interlocal cooperation agreement with Boone County or Hendricks County whereby the Town of Whitestown will assume Boone County's responsibility under I.C. § 8-17-1-45 with respect to highway right-of-way making up Boone County's southern boundary to the extent the highway right-of-way is contiguous to the Annexation Territory or is located within five (5) feet of the Annexation Territory pursuant to the severability provisions of this Ordinance; and

WHEREAS, the Annexation Territory, as amended, consists of approximately seventy (70) acres, and is contiguous to the existing Town limits; and

WHEREAS, responsible planning and state law require adoption of a fiscal plan and a definite policy for the provision of certain services to any annexed areas; and

WHEREAS, the Town has engaged professionals to study the fiscal and governmental impacts of such an annexation on both the Town and on the affected landowners; and

WHEREAS, prior to adoption of this Ordinance, this Council, by resolution, has adopted a written fiscal plan and definite policy for the provision of services of both a non-capital and capital nature to the Annexation Territory; and

WHEREAS, the written fiscal plan and definite policy adopted by resolution provide for the provision of services of a non-capital nature (including police protection, fire protection, street and road maintenance, and other non-capital services normally provided within the corporate boundaries of the Town) to the Annexation Territory within one (1) year after the effective date of this annexation in a manner equivalent in standard and scope to those non-capital services provided to areas within the current corporate boundaries, regardless of similar topography, patterns of land use, and population density; and

WHEREAS, the written fiscal plan and definite policy adopted by resolution provide for the provision of services of a capital nature (including street construction, street lighting, sewer facilities,

water facilities and storm water drainage facilities) to the Annexation Territory within three (3) years after the effective date of this annexation in the same manner those services are provided to areas within the current corporate boundaries, regardless of similar topography, patterns of land use, and population density and in a manner consistent with federal, state and local laws, procedures, and planning criteria; and

WHEREAS, the terms and conditions of this annexation, including the written fiscal plan and definite policy, are fairly calculated to make the annexation fair and equitable to property owners and residents of the Annexation Territory and of the Town; and

WHEREAS, the Annexation Territory is contiguous to the existing corporate boundaries of the Town; and, the Annexation Territory is needed and can be used by the Town for its development in the reasonably near future; and

WHEREAS, prior to the final adoption of this Ordinance, the Town has conducted a public hearing pursuant to proper notice issued as required by law; and

WHEREAS, the Council finds that the Annexation pursuant to the terms of this Ordinance is fair and equitable and should be accomplished.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whitestown, Indiana, as follows:

1. The above recitals including Exhibit A and Exhibit B are incorporated herein by this reference as though fully set forth herein below.
2. In accordance with I.C. § 36-4-3 et seq., the Annexation Territory is hereby annexed to the Town and thereby included within its corporate boundaries pursuant to the terms of this Ordinance.
3. The Annexation Territory is assigned to Council District No. 4.
4. The Annexation Territory shall maintain its current zoning classification(s) and designation(s) until such time the Town updates its respective comprehensive plan, zoning ordinance, or zoning map.

5. If it is determined in any final order no longer subject to appeal in any challenge to this Ordinance that any amendment to this Ordinance either prior to or after its adoption has rendered this Ordinance unenforceable, invalid, or otherwise ineffective, then this Ordinance shall be reformed so as to exclude such amendment and shall be considered adopted as if the amendment had never been made.
6. All prior Ordinances or parts thereof that may be inconsistent with any provision of this Ordinance are hereby repealed. The paragraphs, sentences, words, and Annexation Territory of this Ordinance are separable, and if a court of competent jurisdiction hereof declares any portion of this Ordinance or the Annexation Territory unconstitutional, invalid, or unenforceable for any reason, such declaration shall not affect the remaining portions of the Annexation Territory or this Ordinance.
7. The Council interprets I.C. § 36-4-3-2.5 ("Section 2.5") as not applying to the extent a portion of the right-of-way is in another county. If it is determined in any final order no longer subject to appeal in a judicial challenge to this Ordinance that Section 2.5 applies even to highway rights-of-way located in another county, then the legal description of the Annexation Territory shall be reformed as follows: With respect to those public highway rights-of-way lying partially or wholly outside Boone County, Indiana, and which are either contiguous to or partially within the Annexation Territory, the legal description of the Annexation Territory shall stop five (5) feet short of the northern boundary of the right-of-way and shall run therewith parallel to the right-of-way maintaining such five (5) foot separation so that the Annexation Territory will not include land which is contiguous to said right-of-way.
8. The effective date of this annexation shall be as soon as allowed by law following its adoption, execution, and publication as required by law.

Introduced on April 22, 2014, and adopted by the Town Council of the Town of Whitestown, Indiana, on _____, 2014.

THE TOWN COUNCIL OF THE TOWN
OF WHITESTOWN, INDIANA

YAY/NAY

Eric Miller

Julie Whitman

Dawn Semmler

Susan Austin

Kevin Russell

ATTEST:

Amanda Andrews, Clerk-Treasurer
Town of Whitestown, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Stephen C. Unger

This Ordinance was prepared by Stephen C. Unger, Attorney at Law, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204

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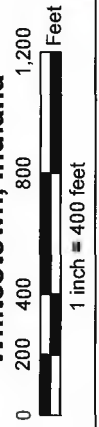


Legend

-  Whitestown Corporate Limit
 Township Boundary
 Annexation - South Annexation
 Pending 2013 Annexation
 Parcel Boundary
 Road Centerlines

Total Area (Acres): 70
Perimeter (feet): 7,216
Shared Boundary (feet): 7,197
Contiguous Percentage: 31.7%

Potential Annexation - South Whitestown, Indiana



EXHIBIT

tables



GRW Engineers, Inc.
7112 Waldemar Drive
Indianapolis, IN 46268
Voice 317.347.3650
Fax 317.347.3656
Printed: April 22, 2014

**WHITESTOWN 2014 SOUTH ANNEXATION
LEGAL DESCRIPTION**

Beginning at the southwest corner of the Southeast Quarter of the Southeast Quarter of Section 12, Township 17 North, Range 1 East, Boone County, Indiana; thence North 1320 feet, more or less along the west line of said Quarter-Quarter section to the northwest corner thereof; thence East 1320 feet, more or less along the north line of said Quarter-Quarter section to the boundary of the tract of land described in Annexation Ordinance 2007-01 recorded as Instrument No. 200700004632 in the Office of said Recorder; thence along said boundary East along the north line of South Half of the Southwest Quarter of Section 7, Township 17 North, Range 2 East 974 feet, more or less to the west line of the remainder of Parcel II as described in Instrument No. 0009956 in the Office of said Recorder; thence South along said west line 1320 feet, more or less to the south line of said Half-Quarter section; thence West 957.2 feet, more or less along said south line to the southwest corner of said Southwest Quarter which is the southeast corner of the Southeast Quarter of said Section 12; thence West 1320 feet, more or less along the south line of the Southeast Quarter of said Southeast Quarter to the point of beginning, containing 70 acres, more or less.

EXHIBIT

B